



ORIGINAL

Volume: 1  
Pages: 1-95  
Exhibits: 1-26

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

**Exhibit 1**

C.A. NO. 04-CV-11838-PBS

\*\*\*\*\*X

LAYLA KIANI

Plaintiff

vs.

TRUSTEES OF BOSTON UNIVERSITY

Defendant

\*\*\*\*\*X

DEPOSITION OF LAYLA KIANI, a witness

called on behalf of the Defendant, pursuant to the applicable provisions of the Massachusetts Rules of Civil Procedure, before Camille Macomber, Registered Professional Reporter and Notary Public within and for the Commonwealth of Massachusetts, at Boston University, 765 Commonwealth Avenue, Boston, Massachusetts, on Thursday, April 21, 2005, commencing at 10:00 a.m.

SHEA COURT REPORTING SERVICES  
ONE UNION STREET, SECOND FLOOR  
BOSTON, MASSACHUSETTS 02108  
(617)227-3097

1 A The last time we did not review documents.

2 Q Have you reviewed documents on your own or with  
3 your attorney in preparation for this  
4 deposition?

5 A Yes.

6 Q What did you review?

7 A What is my review?

8 Q What did you review?

9 A Anything that we had from BU that was sent over,  
10 anything that I had when the charges were filed,  
11 and there was some of it that I had. I had sent  
12 him medical records on my own and stuff. So  
13 things like that.

14 Q Ms. Kiani, where do you live right now?

15 A Do you want the physical address?

16 Q Please.

17 A 86 East Howard Street in Quincy.

18 Q Do you have a home telephone number?

19 A Yes, (781)929-9966.

20 Q Do you live with your mother?

21 A I do.

22 Q Anybody else?

23 A No.

24 Q You graduated from the University of Texas at

1 Arlington in 2000; correct?

2 A I did.

3 Q You were at Boston University Law School from  
4 the fall of 2000 until the spring of 2003;  
5 correct?

6 A Yes.

7 Q Have you had any other education since the  
8 spring of 2003?

9 A I have not.

10 Q Have you been employed since the spring of 2003?

11 A I have not.

12 Q In your response to Boston University's request  
13 for documents, you submitted several letters  
14 from law firms in response to in inquiry about  
15 your efforts to find work.

16 A Right.

17 Q Do those letters reflect the cumulative effort  
18 to seek work on your part?

19 A Yes.

20 Q I want to just take care of some preliminary  
21 business with you quickly. I'm going to ask  
22 Ms. Macomber to mark the Complaint in this case  
23 as Exhibit 1, and your response to Boston  
24 University's First set of Answers to

1 Who signed Exhibit 6?

2 A It's Ida Ten, she's the Associate Registrar.

3 Q So Exhibit 6 is a letter from Ms. Ten to you --

4 A Yes.

5 Q -- confirming the accommodations?

6 A Yes.

7 Q That's dated October 6, 2000?

8 A Yes.

9 Q Ms. Kiani, were you satisfied with the  
10 accommodations set out in Exhibits 4 through 6?

11 A At what point?

12 Q You requested the accommodations that  
13 Dr. Herring recommended; right?

14 A Right.

15 Q In Exhibit 4, you sent those accommodations to  
16 Mr. Macurdy?

17 A Right.

18 Q In Exhibit 5, Mr. Macurdy recommended that Dean  
19 Cass endorse them, and he did, as we can see by  
20 his signature?

21 A Yes.

22 Q And Exhibit 6 is a letter from Ms. Ten to you  
23 formally informing you of the accommodations.

24 A Yes.

1 Q Were you content with those accommodations?

2 A No.

3 Q Why not?

4 A These accommodations -- when I first asked for  
5 them, I wasn't a law student. I had gotten  
6 accepted to the University, but it's a whole  
7 different thing when you're a prospective  
8 student than when you're a current student. So  
9 when I got there and saw after the first two  
10 weeks, I saw what it was like to be a law  
11 student, I wasn't happy with them, no.

12 Q Why was that?

13 A It's my own disability, I couldn't take notes.

14 Q Did you seek additional accommodations as a  
15 result?

16 A I did.

17 Q What accommodations did you seek?

18 A I went to talk to Mr. Macurdy to let him know  
19 that I was uncomfortable and I needed a  
20 stenographer.

21 Q What did Mr. Macurdy say?

22 A No.

23 Q Did he tell you why?

24 A I couldn't have one -- I couldn't have one here

1 because I didn't have one in college.

2 Q Was this a face-to-face conversation?

3 A Yes.

4 Q Did this conversation take place after you  
5 received the letter from Ms. Ten on October 6,  
6 2000?

7 A I believe so.

8 Q Where did this take place?

9 A In his office.

10 Q Did this conversation take place in Macurdy's  
11 office?

12 A Yes.

13 Q At 19 Deerfield Street?

14 A Yes.

15 Q What did you do next?

16 A Nothing. That whole conversation was so  
17 uncomfortable. He didn't let me explain why I  
18 thought I needed the stenographer. So then he  
19 kind of looked at me like, "Is this conversation  
20 over?" And it wasn't over for me.

21 Q Did he say that?

22 A No, you could tell, it was just in his face that  
23 the whole conversation was like combative.

24 So -- sorry.

1 Q Do you want to take a break?

2 A No. So then he sent me -- I didn't do anything.  
3 I left because I didn't want to make enemies. I  
4 knew that I needed him for other things. It was  
5 first year, it was two weeks into the school  
6 year, so I didn't want to make enemies, and I  
7 didn't know anything. So I didn't have to do  
8 anything. He sent me what I thought was a nasty  
9 e-mail afterwards.

10 Q Did you save that e-mail?

11 A No.

12 Q There were no e-mails produced between you and  
13 Mr. Macurdy?

14 A That's not true.

15 Q Well, we can get to that. What did this e-mail  
16 that you've just described as nasty say?

17 A It wasn't vulgar or anything, I want to be  
18 really clear about that. It wasn't vulgar. He  
19 said some things that I didn't think were his  
20 place to say.

21 Q What did he say?

22 A Well, when he wasn't listening to me, my mom was  
23 in there with me. He had invited her in, so she  
24 was trying to explain to him through me that I

1 was tired and that she was noticing some of my  
2 medical symptoms. But he -- I guess, he didn't  
3 like that. So then in the e-mail he said, this  
4 is a direct quote, I remember this exactly,  
5 "While the presence of a personal care attendant  
6 is not unique, giving deference to a personal  
7 care attendance is."

8 And then this is another direct quote,  
9 that he urged me not to have, quote, "triangular  
10 conversations," as between me, someone else and  
11 a third party such as my mother.

12 I didn't like what he had to say  
13 because I didn't think it was -- didn't think it  
14 was his place for him to be referring to my  
15 mother as a personal care attendant and getting  
16 into a section of my personal life. But  
17 nonetheless, I wrote him back and I said, "I  
18 appreciate that you've been candid with me, and  
19 I hope that you will do that throughout my years  
20 here at BU. My mother is special to me. If she  
21 tries to be my advocate, I won't say no."

22 Q Did you save that e-mail?

23 A No, I didn't. I had it saved until second year.

24 Q After this exchange with Mr. Macurdy, what did



1 Mr. Macurdy?

2 A Yes.

3 Q Did she tell you what to do next?

4 A No.

5 (The document was marked as Exhibit  
6 No. 7.)

7 Q Ms. Kiani, please read Exhibit 7.

8 A (Witness reviews document.)

9 Q Just let me know when you're done?

10 A I'm finished.

11 Q You have read the whole thing?

12 A Yes.

13 Q Ms. Kiani, Exhibit 7 is a printout of an e-mail  
14 exchange between you and Dean Marx; correct?

15 A Yes.

16 Q It has been Bate stamped as BU 0232 and produced  
17 to your attorney during the course of discovery.

18 A This is the first time I have seen this.

19 Q Do you recall this e-mail exchange back in  
20 October of 2000?

21 A I don't. I'm sorry.

22 Q Let's pick it up in the middle, beginning with  
23 what appears to be an e-mail from you, "Dean  
24 Marx, Hi, I went to my appointment with Alan

1 Macurdy," et cetera.

2 A Okay.

3 Q Does this sound like what you would have said to  
4 the Dean after your appointment --

5 A Yes.

6 Q -- with Allan Macurdy? Wait until I'm finished.

7 A I'm sorry.

8 Q Does this sound like what you would have written  
9 to Dean Marx after you met with Mr. Macurdy?

10 A Yes.

11 Q Now, in your e-mail to Dean Marx, you write --  
12 I'm going to paraphrase and you tell me if my  
13 paraphrase is accurate.

14 A Right.

15 Q Your e-mail to Dean Marx basically says, "I need  
16 more than I have been given. How do I get it?"

17 A Right.

18 Q Is that a fair and accurate paraphrase?

19 A Yes.

20 Q In the last paragraph of your e-mail you write,  
21 "What is the exact procedure of getting in touch  
22 with the Provost, and is there any documentation  
23 that can be used to show how my request is  
24 supported by my disability." Did I read that

1 correctly?

2 A Yes.

3 Q So you have basically said to Dean Marx, "How do  
4 I get in touch with the Provost? What do I need  
5 to do to show that I need more accommodations."

6 A Right.

7 Q Is that accurate?

8 A Right.

9 Q Now, let's turn to the top half of Exhibit 7,  
10 this is Dean Marx's reply to you; correct?

11 A Yes.

12 Q Now, Dean Marx says, "There is a grievance  
13 procedure for the University for those who  
14 believe they have been discriminated against on  
15 the basis of disability. This procedure is in  
16 the BU Life Book. I will put a copy of that  
17 procedure in your mail file on the first floor."

18 Did I read that accurately?

19 A Yes.

20 Q What is a mail file? Is that a mailbox that all  
21 students have?

22 A Yes.

23 Q Did you read the BU Student Life Book and see  
24 the procedure for filing a complaint for

1 discrimination?

2 A When?

3 Q At the time that Dean Marx put --

4 A I'm sure. I don't remember, but I must have.

5 Q Did you file a complaint of discrimination on  
6 the basis of disability?

7 A No.

8 Q Why not?

9 A I don't know why.

10 Q Further down, I'm going to read a little bit  
11 more, "It sounds to me like you're not alleging  
12 discrimination on the basis of disability, but  
13 rather you are not satisfied with Mr. Macurdy's  
14 determination that the transcriber is not  
15 supported by your disability." Did I read that  
16 correctly?

17 A Yes.

18 Q Dean Marx then goes on to tell you what to do to  
19 get your accommodation.

20 A Yes.

21 Q She says to write to the Provost, Dr. Berkey,  
22 and explain what accommodations you are  
23 requesting, what accommodations Disability  
24 Services provided you, why they were wrong.

1 A Right.

2 Q And then she says, and I'm quoting from Dean  
3 Marx's e-mail to you, "You should also provide  
4 documentation that might support your request."

5 A Right.

6 Q Did I read that correctly?

7 A That's correct.

8 Q Then she tells you how to reach the Provost,  
9 Dr. Berkey?

10 A Right.

11 Q Did you write to Provost Berkey requesting an  
12 accommodation?

13 A I did not.

14 Q Did you appeal to anyone from Mr. Macurdy's  
15 decision?

16 A No, because I was told that Mr. Macurdy handles  
17 the accommodations. I don't remember anything  
18 about this e-mail.

19 Q Do you remember whether you wrote to Dr. Berkey,  
20 the Provost?

21 A Absolutely not, I would have remembered that. I  
22 did not write to him.

23 Q Did you send Dr. Berkey additional documentation  
24 that might support your request for a

1 transcriber?

2 A No.

3 Q Did you send anyone documentation that might  
4 support your request for a transcriber?

5 A No, I didn't know what other documentation I  
6 could have given that I hadn't already.

7 Q Did you ask Dean Marx what other documentation  
8 you could have given?

9 A No.

10 (Witness confers with Mr. Tariri  
11 off the record.)

12 Q Ms. Kiani, I'm going to ask you not to talk with  
13 your attorney unless you want me to learn about  
14 it.

15 A Okay.

16 Q I don't want to do that, but you need to  
17 understand the ground rules here.

18 A Right, okay.

19 Q Ms. Kiani, did you make any further attempts to  
20 get additional accommodations?

21 A I did not.

22 (The document was marked as Exhibit  
23 No. 8.)

24 A (Witness reviews document.)

1 Q In 2003, when did you read them?

2 A I had had some familiarity with it before I went  
3 to visit Professor Rosenfeld to ask him to  
4 represent me.

5 Q When did you visit Professor Rosenfeld?

6 A That same day that that e-mail that you don't  
7 have was written.

8 Q So that was sometime after you received notice  
9 that you were suspended?

10 A Yes.

11 Q Sometime after Dean Cass' letter of May 12,  
12 2003?

13 A A few days after, yes.

14 Q Did you read the disciplinary regulations  
15 between the time you received Dean Cass' May 12,  
16 2003 letter and the time you went to see Arnie  
17 Rosenfeld?

18 A I know that I went and read them right before I  
19 went to see Professor Rosenfeld, but I couldn't  
20 tell you what I did in those days between when I  
21 was charged and when I went to see Professor  
22 Rosenfeld. I was so out of it, I wished I was  
23 dead.

24 Q We don't need to get into specifics about what

1           you did, I just need a general timeframe here.

2                       Did you have the opportunity to meet  
3           with Professor William Ryckman in advance of the  
4           Judicial Committee Hearing?

5       A     You mean did I meet with him?

6       Q     Did you have the opportunity to meet with him?

7       A     Define opportunity.

8       Q     Did you have the chance to meet with Professor  
9           Ryckman? Let me put it a different way.

10      A     Please.

11      Q     Did Professor Ryckman ask to meet with you or  
12           invite you to meet with him?

13      A     Did he ask me directly?

14      Q     Either you or through your attorney.

15      A     He asked my attorney, but before he asked my  
16           attorney, I had gone to -- The reason I went to  
17           Professor Rosenfeld to ask him to represent me  
18           because I did not, for the life of me, want to  
19           talk to Professor Ryckman.

20      Q     Why was that?

21      A     He is legendary.

22      Q     In what respect?

23      A     I have heard that he makes students emotionally  
24           uncomfortable.



1 Q Had you ever met him before?

2 A No.

3 Q Have you heard that he makes students, I'm using  
4 your phrase now, emotionally uncomfortable in  
5 his classes?

6 A Yes.

7 Q Have you heard anything about Professor  
8 Ryckman's role in the discipline process?

9 A I didn't know until charges -- I didn't know  
10 until after I went to see Professor  
11 Rosenfeld that -- well, no. Steve Marx had  
12 already advised me a little bit about the  
13 process and what was going to happen, so I think  
14 I heard it from him that it was going to be  
15 Professor Ryckman.

16 Q Was Arnie Rosenfeld a professor at that time?

17 A Yes, he was.

18 Q A visiting professor?

19 A I don't know his title.

20 Q Did you talk with Professor Rosenfeld about  
21 meeting with Professor Ryckman?

22 A I did. I told him I didn't want to do it.

23 Q You told him you did not want to do it?

24 A Yes.

1 Q I don't want to ask you about what he told you,  
2 but after talking with Professor Rosenfeld, did  
3 you decline to meet with Professor Ryckman?

4 A No, what I thought and what I had said that I  
5 didn't want to meet with him was only  
6 reaffirmed.

7 Q So the combination of your own desire not to  
8 meet with Professor Ryckman and your meeting  
9 with Professor Rosenfeld led you not to meet  
10 with Professor Ryckman; is that fair?

11 A Yes.

12 Q When was the first time you met with Professor  
13 Ryckman?

14 A I only saw him at the hearing on September 12,  
15 2003.

16 Q Did you have any written communications with  
17 Professor Ryckman before the hearing in  
18 September 2003?

19 A No.

20 Q Did Professor Ryckman communicate to you in  
21 writing before September 2003?

22 A No.

23 Q Did he communicate either verbally or in writing  
24 with Professor Rosenfeld about your case before

1 September 2003?

2 A Yes.

3 Q When?

4 A I know that that they talked throughout the  
5 course of Professor Rosenfeld representing me,  
6 I'm not sure when. I don't know specific dates.

7 Q Do you think they talked before the hearing in  
8 September 2003?

9 A Yes.

10 Q Do you know what they talked about?

11 A Professor Rosenfeld was trying to be my  
12 advocate. I don't know what was said.

13 Q Do you know if Professor Ryckman communicated to  
14 Professor Rosenfeld any desire to meet with you?

15 A Yes.

16 Q Your testimony is that Professor Ryckman told  
17 Professor Rosenfeld that he wanted to meet with  
18 you?

19 A Yes.

20 Q What did Professor Rosenfeld tell Professor  
21 Ryckman?

22 A This is not a direct quote, but he said that my  
23 client doesn't want to meet with you, and I have  
24 advised her not to.

1 Q Ms. Kiani, did you read Boston University's  
2 Motion to Dismiss?

3 A Yes -- wait. Was that the initial one or the  
4 one that you filed and then Judge Saris ruled  
5 on?

6 Q I will show you. (Mr. Elswit scans documents.)  
7 Actually, I don't have those documents here, and  
8 we're going to have to just address this theme  
9 after lunch.

10 A Okay.

11 THE WITNESS: May I just ask a general  
12 question?

13 MR. ELSWIT: Sure. Do you want to be  
14 on the record or not?

15 THE WITNESS: It doesn't matter.

16 MR. ELSWIT: I will give you that  
17 liberty that I don't ordinarily give witnesses.

18 THE WITNESS: Is it possible that I  
19 communicate with counsel outside of these  
20 proceedings?

21 MR. ELSWIT: I will tell you what.  
22 Why don't we take a lunch break a little earlier  
23 than usual, and you can talk all you want, and I  
24 will decide how much I want to inquire of those

1           conversations. And if Mr. Tariri objects, we'll  
2           go from there. Would that be all right?

3                   THE WITNESS: That's fine. Thank you.

4                   (Wherein the lunch break was held.)

5

6 BY MR. ELSWIT:

7       Q     Ms. Kiani, before the lunch break -- and I  
8           should remind you that the same rules are in  
9           effect. You're under oath, and if you need a  
10          break at any time, you can ask for one, and  
11          we'll, of course, get it.

12       A     I understand.

13       Q     Ms. Kiani, before the lunch break, we were  
14          talking about the disciplinary rules. I believe  
15          you said you skimmed them in your first year and  
16          then read them more carefully in the spring or  
17          summer of 2003?

18       A     That's correct.

19       Q     Had you read them before you skimmed them in  
20          your first year?

21       A     No.

22       Q     So you didn't read them when you applied to law  
23          school?

24       A     No.

1 Do you see page 7 up on the top right?

2 A Right, I do.

3 Q The first text is, "Mr. Rosenfeld: I thought  
4 you were doing it," and then Professor Ryckman.

5 A Right.

6 Q Please read to yourself Professor Ryckman's  
7 remarks that start at the top of page 7 and go  
8 to the bottom.

9 A (Witness reviews document.) Yes.

10 Q The second paragraph contains the following  
11 sentence. This is Professor Ryckman now.  
12 "Obviously, the student has a right to remain  
13 silent, and on advice of counsel, I was informed  
14 that Ms. Kiani did not wish to be interviewed by  
15 me."

16 A Right.

17 Q Were you at the hearing when Professor Ryckman  
18 said, "Obviously, the student has a right to  
19 remain silent"?

20 A Yes.

21 Q Do you recall Professor Ryckman saying this?

22 A Yes.

23 Q You knew you had this right because you had read  
24 the discipline rules; is that correct?

1 A No, like I said, I just skimmed procedurally to  
2 see what the process was.

3 Q Your testimony so far is, you skimmed the rules  
4 in the fall of 2000?

5 A Right.

6 Q And that you read then more carefully after you  
7 received your letter of suspension?

8 A Yes.

9 Q Did you read them or skim them?

10 A I don't remember.

11 Q Did you discuss your right to remain silent with  
12 Professor Rosenfeld, your attorney?

13 A No.

14 Q This text, Professor Ryckman's text says,  
15 "Obviously, the student has a right to remain  
16 silent, and on the advice of counsel, I was  
17 informed that Ms. Kiani did not wish to be  
18 interviewed by me." Is that correct?

19 A Yes.

20 Q Did you speak at this hearing on September 12,  
21 2003?

22 A Yes.

23 Q Was your attorney present?

24 A Yes.

1 Q Did your attorney ask you questions?

2 A Yes.

3 Q Did your attorney tell you not to respond to any  
4 questions?

5 A No.

6 Q Did you answer questions from other participants  
7 of the hearing?

8 A Yes.

9 Q Did your attorney tell you to answer or not to  
10 answer any of those questions?

11 A No.

12 Q Now Ms. Kiani, in light of this transcript, is  
13 it accurate to say that you were advised of your  
14 right to remain silent?

15 A No.

16 Q Why not?

17 A My previous testimony, if you recall, was that  
18 before I even went to Professor Rosenfeld to ask  
19 him to represent me, was that I knew I didn't  
20 want to talk to Professor Ryckman. So it wasn't  
21 based on anybody's advice that I shouldn't talk  
22 to him. It was, as I said before, it  
23 reconfirmed what I already knew.

24 Q Which was?